



UNITED STATES SENATE
**REPUBLICAN
POLICY COMMITTEE**

Larry E. Craig, Chairman
Jade West, Staff Director

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For Solicitor General of the United States

It's Time to Confirm Ted Olson

The Solicitor General of the United States represents the United States before the Supreme Court. He decides which cases the Federal Government will ask the High Court to review, and he and his staff write the briefs and make the Government's arguments when the court accepts a case. He also decides which cases from the lower courts the Government will appeal.

President Bush has nominated Theodore B. Olson to be Solicitor General of the United States. Mr. Olson is a partner in a prestigious law firm, and he was an assistant attorney general during the Reagan Administration. He is a highly respected lawyer with special expertise in appellate practice and constitutional law who argued on behalf of then-President-elect Bush in the Florida election controversy.

Democrats on the Judiciary Committee voted *en bloc* against the Olson nomination. The full Senate has not yet voted on the question.

It's a shame the Senators who voted against Mr. Olson in committee didn't follow the counsel of their colleague, Senator Zell Miller, Democrat of Georgia, who said he will vote to confirm Mr. Olson. Senator Miller also said, "I can't help but wish that among us there was more getting along than getting even. It seems sometimes as if there were this never-ending, back-and-forth, partisan ping-pong game of revenge. . . . For the good of both political parties, and especially for the good of the country, it needs to end."

On the same day that Senator Miller spoke out, *The Washington Post* pointed out that "Mr. Olson is one of Washington's most talented and successful appellate lawyers, a man who served with distinction in the Justice Department during the 1980s and whose work is widely admired across party lines." The *Post* went on to say that "Mr. Olson's prior service at the Justice Department indicates that he understands the difference between the roles of private citizen and public servant" and that "the Democrats would be wrong to block Mr. Olson."

Many other individuals have testified of Mr. Olson's ability and integrity:

- Judge William Webster, former federal judge and director of both the CIA and FBI, said he knew Mr. Olson to be "honest and trustworthy" and that he had the "utmost confidence" in Mr. Olson's "ability, his loyalty to country, his fidelity to the Constitution, and his personal integrity."

- Robert Bennett, respected Washington lawyer and counsel to then-President Clinton, said Mr. Olson “is a truth-teller” and “a man of great personal integrity and credibility [who] should be confirmed.”
- Walter Dellinger, former Acting Solicitor General and Assistant Attorney General for the Office of Legal Counsel under President Clinton, has called for Mr. Olson’s “prompt confirmation.” He said, “I am confident that as Solicitor General, Ted would act consistently and exclusively in the highest interests of his only client — the United States.”
- Robert Shanks, Vice President and Deputy General Counsel of Nextel, who served with Mr. Olson in the Justice Department, said, “I can assure you that he is both superbly well qualified and embodies the very highest ethical standards of the legal profession.”

Regarding Mr. Olson’s participation in the so-called “Arkansas Project” (which was an investigative undertaking of the *American Spectator* magazine), the controversy may simply be over different definitions of what comprised that project. Writer David Brock, who Mr. Olson’s opponents believe tells a different tale than Mr. Olson, wrote in the *New York Times* of May 16, 2001, that it was his understanding “that *all* of the pieces dating back to 1994 that dealt with investigating scandals pertaining to the Clintons, particularly those that related to his time in Arkansas, were all under the Arkansas Project” [emphasis added]. Mr. Olson, on the other hand, takes a different view of when the “Arkansas Project” began and what was included within the term.

Mr. Olson testified clearly and candidly about his activities in connection with the *American Spectator*, including his co-authorship of an article about the Clintons that was published in 1994.

Chairman Hatch exhaustively reviewed Mr. Olson’s testimony, his answers to written questions and subsequent letters, and the testimony of others. The Chairman said, “I am convinced that these responses show no inconsistencies or evidence that Mr. Olson misled or was less than truthful to the Committee in any way. Rather, they show him to be forthright and honest.”

Eight persons have submitted signed statements confirming the complete accuracy of Mr. Olson’s testimony that he was not involved in the origin, management, or supervision of the *American Spectator*’s “Arkansas Project”:

- R. Emmett Tyrrell and Wladyslaw Pleszczynski, the editor-in-chief and editor of the *American Spectator*, respectively, said that Mr. Olson’s statements that he was “not involved in the [Arkansas] project in its origin or its management and that he was not involved in organizing, supervising or managing the conduct of [the magazine’s investigative] efforts are accurate and thus truthful.”
- Terry Eastland, then-publisher of the *American Spectator* (now publisher of *The Weekly Standard*) who conducted an independent audit of the “Arkansas Project” at the direction of the

magazine's Board of Directors, said, "I found no evidence that Mr. Olson was involved in the project's creation or its conduct."

- James Ring Adams, the lead writer of articles published in the *American Spectator* on subjects related to the Arkansas Project, said, "It is false and wrong to assert that Mr. Olson had any role whatsoever in managing or directing what is referred to as the 'Arkansas Project.'"
- David Henderson and Stephen Boynton, who were employed by the *American Spectator* to implement the "Arkansas Project," said, "In performing our investigative work for the *American Spectator*, we were not directed or managed in any way by Theodore Olson. He did not participate, nor was he asked to participate, in either the planning or conduct of the 'Arkansas Project.' Contrary to assertions, made by those lacking personal knowledge and with a political or personal agenda, are simply false."
- Michael Horowitz, a lawyer alleged to have been involved in the "Arkansas Project," said that he knew "of no respect in which Mr. Olson was involved in the Project's 'origin or its management.'"
- Douglas Cox, a law partner of Mr. Olson's who participated in the legal representation of the *American Spectator*, said, "I am not aware of any fact that would support or in any way credibly suggest that Mr. Olson was involved in the origin, management, or supervision of the investigative journalism projects . . . that became known as the 'Arkansas Project.'"

Senator Leahy, the Ranking Minority Member on the Senate Judiciary Committee, has requested internal information from the *American Spectator* magazine and its billing records. Many are troubled by this request, believing that it contravenes the magazine's rights under the First Amendment ("Congress shall make no law . . . abridging the freedom of speech, or of the press"). Columnist William Safire, a friend of Senator Leahy's, says the request "requires trampling on the First Amendment," and that "waving a vacuum cleaner at an editorial office is no way for Congress to go after the facts."

Ted Olson is an honorable and capable man who will serve the country and the Constitution well. The Judiciary Committee's investigation has confirmed these truths, and it is time for Ted Olson to be confirmed.

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This paper is based on information provided by the Republican Staff of the Senate Judiciary Committee.